



Natural Resources Conservation Service  
6013 Lakeside Blvd.  
Indianapolis, IN 46278

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January 11, 2008

**INDIANA BULLETIN NO. 300-8-9**

**SUBJECT:** LTP – Cost Recovery from Conservation Program Participants who Lose Control of Land Involuntarily Due to Actions of the Landowners

**Purpose.** To provide information and instructions for Conservation Program participants who lose control of land under a Natural Resources Conservation Service (NRCS) Conservation Program contract due to actions of the landowner.

**Expiration Date.** September 30, 2008

**Background.** Conservation Program Manual, Title 440, Part 512, Conservation Programs Contracting, Sections 512.57 and 512.58 describe the process for canceling and terminating Conservation Program contracts and cost recovery.

Indiana Bulletin IN 440-7-4, PGM- Requests for Modification, Cancellation, or Termination of Conservation Program Contracts for Programs Administered through ProTracts, describes the policy, process, and forms used for EQIP and WHIP cancellations/ terminations in Indiana.

Indiana Bulletin IN 440-7-5, PGM- Requests for Modification, Cancellation, or Termination of Conservation Program Contracts for the Conservation Security Program (CSP), describes the policy, process, and forms used for CSP cancellations/ terminations in Indiana.

The Natural Resources Conservation Service (NRCS) generally seeks a recovery of costs when a Conservation Program Contract (CPC) is terminated or canceled. Refer to the CPC Appendix to determine if cost recovery applies to the contract in question. Recovery costs include an estimated value of technical assistance (liquidated damages) and a refund of financial assistance (payments disbursed). NRCS must consider the following when determining the cost recovery amount:

- (i) Whether the participant had attempted to comply with the terms and conditions of the contract in good faith; or
- (ii) Whether the participant was unable to comply with the terms and conditions of the contract due to economic or personal hardship which has arisen since the obligation of the contract.

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**Explanation.** The NRCS State Conservationist (STC) may waive all or part of any liquidated damage assessment or cost recovery according to the applicable program regulation. ***Loss of land under a CPC by the participant due to actions of the landowner will be considered as involuntary on the part of the participant. Any action by a landowner to change the terms, conditions, or lessee may be considered beyond the control of a tenant.***

For CSP: In cases of involuntary loss of control *after* the annual payment for any given fiscal year (FY) has been made, cost recovery will not be requested if the recurring conservation system has been put into place on those acres for the FY that the payment covers. If the conservation system for any given FY has not been applied to the lost acres, cost recovery would be required for the FY that the payment covers. Example: FY 08 payment is made in December of 07, participant subsequently loses the land in March of 08 before they had the opportunity to install the conservation system for 08- cost recovery would be required.

For EQIP: When there is involuntary loss of control, cost recovery will not be requested where only management practices have been installed on the lost acres. EQIP policy requires that the landowner sign the contract when the participant can not provide evidence of control, or structural or vegetative practices are being installed. In these cases the owner is party to the contract and agrees to its terms, therefore; if structural or vegetative practices have been installed on the lost land, cost recovery would be required.

The CPC participant, in cases of involuntary loss of control, must provide NRCS written information:

- thoroughly describing the situation that resulted in loss of control
- describing the land involved,
- requesting removal of the lost land from the contract.

To meet this requirement, Indiana will use the appropriate Cancellation/Termination form we have developed.

The participant may request that the STC consider a waiver or reduction of cost recovery. In all cases the STC will make the decision to waive or reduce cost recovery. Field level personnel should not speculate on the waiver or reduction of cost recovery when responding to contract participants.

NRCS employees are to ensure that appropriate actions are taken to prevent waste, fraud or abuse when handling these cases.

/s/

JANE E. HARDISTY  
State Conservationist